

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

04-CR-6173L

v.

MICHAEL J. GRIFFIN,

Defendant.

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By dint of the Second Circuit decision of January 22, 2008, this case has been transferred to the undersigned for sentencing on defendant's guilty plea pursuant to a plea agreement.

The Court is in receipt of defense counsel's letter of September 12, 2008.

I address a couple of issues:

1. Presentence Report. There is a suggestion by defense counsel that there be an updated presentence investigation report, but I am not sure why that is necessary. What has changed since the last report? Defendant has been in custody.

I suggest that we use the prior Presentence Report. If the defendant or the Government has additional information that they wish to forward to Kevin Lyons, the officer who prepared the prior report, they should do so within twenty (20) days of this order. Mr. Lyons can then forward a supplement to the Court relative to that information.

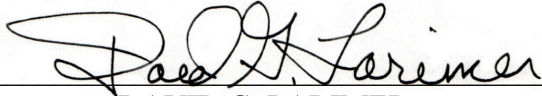
2. I do, of course, have access to the memos and briefs filed prior to the earlier sentence. It is, though, probably best for counsel to submit a new sentencing statement to focus the Court on the issues that remain in dispute. Counsel should specifically advise the Court what items in the presentence report remain disputed.

3. In counsel's letter to the Court, he suggests there is no need for a new sentencing hearing. Does that mean that defendant is content to rely on the evidence developed at the prior hearing, or are the parties in basic agreement as to the facts established at the prior hearing?

In light of the above, defendant is directed to provide the Court with his Statement With Respect To Sentencing Factors and legal memorandum within thirty (30) days of entry of this order, and the Government must file its response within twenty (20) days thereafter.

Once all papers have been submitted, the Court will schedule sentencing.

IT IS SO ORDERED.

  
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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
September 19, 2008.